



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0557	Title:	Clarify capital gains tax credit
Primary Sponsor:	Black, Jerry W	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)
Net Impact-General Fund Balance	<u>(\$2,585,928)</u>	<u>(\$2,585,928)</u>	<u>(\$2,585,928)</u>	<u>(\$2,585,928)</u>

Description of fiscal impact: This legislation would alter the calculation of the capital gains credit for nonresidents and part-year residents by prorating the capital gains credit by the ratio of Montana-source capital gains to all net capital gains, rather than prorating the credit by the ratio of Montana-source income to all income. The Department of Revenue estimates this would increase the amount of capital gains credit claimed by non-residents and part-year residents and decrease general fund revenues.

FISCAL ANALYSIS

Assumptions:

1. This fiscal note assumes that full-year residents would not be affected by this legislation. See technical note 1.
2. Under current administrative rule, part-year residents and non-residents calculate their tax and then apply the capital gains tax credit as if they were Montana residents. The tax after applying the capital gains credit is then multiplied by the ratio of Montana-source income over total income. Therefore, the capital gains tax credit claimed by non-residents and part-year residents is prorated by the ratio of Montana-source income over total income. Under the proposed law, the capital gains credit would be prorated by

the ratio of Montana-source capital gains to all capital gains instead of the ratio of Montana income to total income.

3. Based upon Department of Revenue data, 12,123 non-residents and part-year residents reported a total of \$3,114,274,598 in capital gains in tax year 2005. These taxpayers claimed \$30,705,739 for the capital gains tax credit (the capital gains tax credit rate was 1% in 2005 and some taxpayers did not claim the credit). The overall ratio of Montana-source income to Total Income for these taxpayers was 0.0725. Under current law, the capital gains credit claimed is prorated by the ratio of Montana-source income to Total Income; therefore, the amount of capital gains credit used by these taxpayers to decrease Montana tax liability was \$2,226,166 ($\$30,705,739 \times .0725$).
4. These same taxpayers reported \$351,461,798 in Montana-source capital gains. The ratio of their Montana-source capital gains to total capital gains is 0.113 ($\$351,461,798 / \$3,114,274,598$). Under the proposed law, the amount of capital gains credit these taxpayers would have been eligible to claim would have been \$3,519,130 ($\$3,114,274,598 \times 1\% \times 0.113$).
5. The net impact to the general fund would have been a reduction in general fund revenue of \$1,292,964 ($\$2,226,166 - \$3,519,130$) had the proposed legislation been in place during tax year 2005.
6. HJR 2 includes a zero percent growth assumption for capital gains. However, the capital gains tax credit increases from 1% of capital gains to 2% of capital gains in tax year 2007. Therefore, the impact of the proposed legislation will be a reduction of \$2,585,928 ($\$1,292,964 \times 2$) per year in general fund revenue.
7. The Department of Revenue does not estimate any additional costs in its operations due to this bill.

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Revenues:</u>				
General Fund (01)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)
TOTAL Revenues	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)	(\$2,585,928)

Long-Range Impacts:

1. The negative fiscal impact will continue in future years.

Technical Notes:

1. This fiscal note assumes that full-year Montana residents would not be affected by this legislation, even those with gains from the sale of tangible property located in another state. The definition of Montana-source income includes list of income, all of which is considered Montana-source income if the income was received while a resident of Montana. However, this definition has only been used to apply to non-residents and part-year residents of the state. It is not clear how this definition would be used for residents and or if all types of income is included in this definition. The definition of Montana-source income may cause some confusion among taxpayers.

Sponsor's Initials

Date

Budget Director's Initials

Date